



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

June 11, 1991

Ms. Mary Ann Courter
Assistant General Counsel
Texas Department of Public Safety
P. O. Box 4087
Austin, Texas 78773-0001

OR91-266

Dear Ms. Courter:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 11656.

You have received a request submitted by an attorney seeking an "accident report along with any other investigative materials regarding" an alleged incident between his client and a vehicle owned by the Department of Public Safety (DPS). You inform us that you had received an earlier request from the same individual asking for information regarding an accident involving his client and a named Department of Public Safety officer. After you informed the attorney that no such records existed, he broadened his request, deleting the name of the particular individual. You state that no accident report exists, but you do state that you have certain affidavits involving the attorney's client and another named DPS officer who, the client alleges, struck her with an automobile. The attorney filed a claim against the department on behalf of his client, which the department denied.

You assert that any information subject to the request is excepted from disclosure by section 3(a)(3) of the act, which excepts from disclosure:

information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various

political subdivisions has determined should be withheld from public inspection.

We agree with your assertion. In an Open Records Letter addressed to you, this office previously has held that the filing of a claim with the department accompanied by a request for records satisfies the test for invoking section 3(a)(3). Open Records Letter OR90-216.

We have considered the exception you claimed, specifically section 3(a)(3), and have reviewed the documents at issue. A previous determination of this office, Open Records Decision No. 551 (1990), a copy of which is enclosed, resolves your request. For this reason, you may withhold the requested information.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-266.

Yours very truly,



Jim Moellinger
Assistant Attorney General
Opinion Committee

JM/mc

Ref.: ID# 11656

Enclosure: Open Records Decision No. 551 (1990)

cc: Mr. Wm. J. Kershner
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